

CITY OF WEST LAFAYETTE
COMMON COUNCIL
PRE-COUNCIL MINUTES
JUNE 3, 2010

The Common Council of the City of West Lafayette, Indiana, met in the Lower Level Conference Room at City Hall on June 3, 2010, at the hour of 4:30 p.m.

Mayor Dennis called the meeting to order and presided.

Present: Bunder, Burch, Dietrich, Hoggatt, Hunt, and Thomas.

Absent: Keen.

Also present were City Attorney Burns, Clerk-Treasurer Rhodes, Assistant Superintendent of Parks Ainsworth, City Engineer Buck, Police Chief Dombkowski, Fire Chief Drew, Human Resources Director Foster, WWTU Director Henderson, Director of Development Poole, and Foreman/Equipment Operator VanMeter.

Mayor Dennis asked for comments or questions on the agenda. Councilor Bunder mentioned that there would be three new Go Greener Commission members introduced at the Council meeting; these are Commission appointments.

2009 Tax Abatement Review

Director of Development Poole and City Attorney Burns will present the 2009 Tax Abatement Review Summary at the Council meeting. By way of background, Mr. Poole mentioned that all but one of the companies which have been granted tax abatements are in compliance with their expectations for employment, salaries, or investment. Quadraspec is not in compliance, as it sold the core part of their business, which involved 75% of their equipment. The company is still viable and doing well. Mr. Burns explained that City Code requires that, if there is a Statement of Benefits filed that shows noncompliance, then the Economic Development Commission will recommend to the Council that there be consideration given to determining whether the abatement should continue. EDC met today at noon and made such a recommendation, which the Council will receive, asking the Council to make a finding. State law requires a two-step process, one is within 45 days of the Statement of Benefits being filed, the Council must make a determination as to whether the abatement should continue. The Council needs to set a hearing, so that Quadraspec can explain the situation. Mr. Burns recommended that the hearing should be set on July 1, which is within the 45 days and is the Pre-Council meeting for the July meeting. The hearing is only held if the Council determines, by resolution, that Quadraspec is not in compliance and that their failure to comply is outside their control. If the Council determines that the lack of compliance is outside Quadraspec's control, the Council could waive the hearing and allow the abatement to continue. It appears that the company actually wanted to sell part of its business, so it is not outside its control. The finding the Council would be asked to make at the Council meeting is that Quadraspec is not in compliance, and that the failure to comply has been within their control. The hearing date would be set Monday night at the Council meeting. Mr. Burns indicated that Mr. Poole would be talking with Quadraspec before Monday and gathering information such as the timing of the sale of a portion of the business which had the abatement and over- or under-payment of taxes. At

the hearing in July, the Council would determine whether to continue the abatement, to revoke the abatement, or modify it.

Councilor Dietrich asked when the 45-day period began; Mr. Burns responded that it began May 18, with the 45th day being July 3. Councilor Thomas asked whether Quadraspec is still considered viable. Mayor Dennis answered that there was a certain assumption about how many employees the company would hire; they didn't meet that. Part of Quadraspec was bought by Antech Diagnostics, both of which are still in the Research Foundation. Councilor Dietrich questioned whether the equipment also stayed in the Research Park. Mr. Poole replied that it did. Councilor Bunder asked what the company did. Mr. Burns answered that it does various assays. Councilor Hunt mentioned that the company put something on a CD.

Councilor Bunder questioned who presented the resolution. City Attorney Burns answered that the Council could handle the matter by motion. Procedurally, the motion is easier, but the resolution may be done as an alternate. Mr. Burns stated that he would have a draft of the motion available for Monday's meeting.

There was no further discussion.

Beautification Award

Councilor Dietrich will present the Beautification Award.

UNFINISHED BUSINESS

Ordinance No. 09-10 (AMENDED) An Ordinance Authorizing The City Of West Lafayette, Indiana To Issue Its "Economic Development Revenue Bonds, Series 2010 (Westminster Village Project)" And Approving Other Actions In Respect Thereto (Sponsored by Mayor Dennis)

Mayor Dennis read Ordinance No. 09-10 (AMENDED) by title and noted that the Economic Development Commission passed the resolution in support of this ordinance at its meeting today.

Councilor Hunt asked Ms. Denise Barkdull (Ice Miller bond counsel for Westminster Village) how the proposed ordinance changed. Ms. Barkdull explained that the bid from Huntington National Bank is the one selected to buy the bonds. The dollar amount in the ordinance increased from \$20 million to \$26 million, although the size of the project has not increased. Westminster had planned to finance certain costs from their own funds, but Huntington suggested that, for liquidity purposes, Westminster keep their cash. The \$26 million is a not-to-exceed amount. The other change is to the maximum maturity for the bonds, a 30-year amortization after construction.

Councilor Dietrich questioned whether the construction was scheduled to be five years. Ms. Barkdull responded that there is leeway, because the exact terms had not been finalized. It is still within the maximum allowed by statute. Mr. Ken Burns, Westminster Board member, added that the construction would likely still be in the two-and-a-half-year time frame, but there could be additional projects that are not defined in the ordinance that were going to be paid by cash, but instead likely would be funded through the bond issue. Ms. Barkdull stated that things are still being negotiated, and they didn't want to have to come back to the Council again.

Ms. Barkdull mentioned that there was a public hearing today at the EDC meeting, and that no one was present to speak against the projects or otherwise comment.

Councilor Hoggatt moved to substitute Ordinance No. 09-10 (AMENDED) with Ordinance No. 09-10 (SECOND AMENDMENT BY INSERTION). Councilor Dietrich seconded the motion.

There was no further discussion. Mayor Dennis called for a voice vote.

Mayor Dennis announced that the motion to amend Ordinance No. 09-10(AMENDED) by replacing it with Ordinance No. 09-10 (SECOND AMENDMENT BY INSERTION) passed unanimously by voice vote.

Ms. Barkdull asked for something in the record that Resolution No. 05-10 (AMENDED), which passed at the May Council meeting, does not affect the Westminster project. City Attorney Burns replied that Resolution No. 05-10 (AMENDED) does not take effect until August 1, 2010. Ms. Barkdull questioned whether, if the closing does not occur until early August, there would be a problem. Mr. Burns answered that there would not be a problem, but if he needed to issue a statement on that, it would not take Council action, by the terms of the ordinance.

There was no further discussion.

NEW BUSINESS

Ordinance No. 10-10 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect (UZO Amendment #65, replaces UZO Amendment #63) (Submitted by Area Plan Commission)

Mayor Dennis read Ordinance No. 10-10 by title.

Councilor Burch asked if the ordinance were just housekeeping. Mayor Dennis answered that it is generally housekeeping.

City Engineer Buck explained that UZO Amendment #63 [WL Ordinance No. 34-09, passed December 7, 2009] changed the Zoning Ordinance to allow structures to match the State Code changes that permitted structures in the flood plain to be rebuilt within a specified period of time. The Department of Natural Resources reviewed that amendment, and offered changes. The APC staff worked with DNR to create Amendment #65. The last two pages of the ordinance summarize the differences, which are primarily housekeeping. Mr. Buck said this ordinance does affect some structures in West Lafayette that could potentially be damaged by flooding, and then would be allowed to be rebuilt. It resets the time by six months—July 1, 2013, instead of January 1, 2013.

There was no further discussion.

Ordinance No. 11-10 To Rezone Certain Real Estate Within The City Of West Lafayette, Indiana And Designating The Time When The Same Shall Take Effect (PDRS to R1B, Timberstone Development, LLC) (Submitted by Area Plan Commission)

Mayor Dennis read Ordinance No. 11-10 by title.

Mr. Dan Teder [Reiling Teder & Schrier] suggested that there was a typographical error, in that the new zoning would be R1, not R1B. Clerk-Treasurer Rhodes replied that we use what is supplied by Area Plan Commission.

Mr. Teder requested that Ordinance No. 11-10 be tabled until the August meeting of the Council. The reason for the request is that, when he initially filed documents with APC, he filed two rezoning requests—one for the R1 for 6 acres and another, an R1B, for 160 acres, both in Lauren Lakes. The second one was dismissed and will be refilled as a PDRS, close to what it was when CP Morgan filed it, but with less of an amenity package. He and his clients have met with the homeowners to review the plans and to work out a new amenity package. At APC, the vote on the rezone represented by Ordinance No. 11-10 was 9-2. Mr. Teder said that he had met with City Engineer Buck and other people, who felt that it made sense to continue Ordinance No. 11-10 until August. By that time, the larger parcel (160 acres) would be filed as PDRS, the plans will be ready, and the process will be farther along. He reported that he had met with all the Council members except one, and his plan is to meet with that individual. He thanked the Council for being generous with their time and willingness to talk to him. This is a large project and important for the City and for that area. Taking more time makes sense.

Councilor Hoggatt moved to table Ordinance No. 11-10 until the August Council meeting. The motion was seconded by Councilor Burch.

Mayor Dennis called for a voice vote.

Mayor Dennis announced that the motion to table Ordinance No. 11-10 until the August Council meeting passed unanimously by voice vote.

Councilor Hoggatt asked Mr. Teder to email the Council the date and time of the second meeting with homeowners in Lauren Lakes. Mr. Teder answered that he would.

There was no further discussion.

Ordinance No. 12-10 To Establish The Medical Insurance Payment Fund, The Vision Insurance Payment Fund, And The Dental Insurance Payment Fund (Prepared by the Clerk-Treasurer)

Mayor Dennis read Ordinance No. 12-10 by title, and called on Clerk-Treasurer Rhodes to explain the ordinance.

Clerk-Treasurer Rhodes explained that the intent is to break apart one fund, the Insurance Payment Fund, and create three funds. This will eliminate reconciliation issues and be a clear and efficient solution. Her efforts to research the origin of the one fund were not satisfied; it appears that in 1986 it was created with funds from payroll funds. Details are not available for that historic fund, but now the State Board of Accounts requires a more rigorous procedure for funds. The balance in the fund as of May 31 is \$884.45, but transactions of approximately \$13,000 to \$16,000 flow through the fund each year. Clerk-Treasurer Rhodes requested two readings of the ordinance at Monday's meeting.

There was no further discussion.

Ordinance No. 13-10 An Ordinance Providing For Temporary Loans From A Fund Having Sufficient Balance To A Depleted Fund (Prepared by the Clerk-Treasurer)

Mayor Dennis read Ordinance No. 13-10 by title, and called on Clerk-Treasurer Rhodes to explain the ordinance.

Clerk-Treasurer Rhodes commented that this ordinance will provide authority to borrow throughout the year. Included are the three funds which will be created by Ordinance No. 12-10. There are not sufficient balances to make payments, largely because of delays in receipt of remittances from the third party administrator. There are cutoff problems each month and at year end. Temporary loans will relieve this problem. Loans for payroll funds are primarily related to timing of payments for benefits and when they are due throughout the year *versus* collection time. Loans for the Police and Fire Pension Funds are typically requested each year, due to the State pension relief payments being received twice a year, in January and July. The next pension payments are due June 30. Clerk-Treasurer Rhodes expressed hope that the tax settlement would be received, reducing the need for loans to other funds. But the Police and Fire Pension Funds no longer receive property tax funds, so there isn't going to be any relief until the funds arrive from the State, probably in early July. She called attention to the effective date of the ordinance, which is May 28, 2010; this is because of the need for the Police pension payments.

Councilor Burch asked if two readings on Monday would be necessary. Clerk-Treasurer Rhodes responded that two readings would be necessary.

There was no further discussion.

Resolution No. 06-10 A Resolution Authorizing The Filing Of An Application With The U.S. Department Of Housing And Urban Development, For Community Development Block Grant Funds, As Provided In Title I Of The Community Development Act Of 1974, As Amended (Submitted by Department of Development)

Mayor Dennis read Resolution No. 06-10 by title, and called on Director of Development Poole to explain the resolution.

Director of Development Poole stated that this is the City's application for CDBG funds for the 2010-2011 cycle. The amount is \$477,115, which is an increase of 8% over prior funding.

There was no further discussion.

COMMUNICATIONS

None.

ADJOURNMENT

There being no further business at this time, Councilor Burch moved for adjournment, and Mayor Dennis adjourned the meeting, the time being 5:03 p.m.